

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EMILIO RAMOS,)	CIVIL ACTION NO.
Petitioner,)	04-11731-DPW
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

MOTION FOR CLARIFICATION AND MOTION FOR FURTHER TIME
TO FILE AFFIDAVIT

In its January 6, 2005 Order in response to undersigned counsel's motion for ruling on waiver of attorney-client privilege, the Court ruled that, by placing the question of consultation with his counsel regarding *appeal* in issue, the petitioner has waived his privilege as to all communications touching upon that issue. Whether petitioner was advised of his right to appeal was an issue in the 28 U.S.C. § 2255 petition filed in 98-11857-DPW. Undersigned counsel represented petitioner on that 2255 petition. In its December 22, 2004 Memorandum and Order the Court has asked for an affidavit from undersigned counsel concerning the circumstances of the withdrawal of the 2255 petition. Such an affidavit requires disclosure of attorney-client and other communications in the course of undersigned counsel's representation of petitioner *in the 2255 petition* (a separate attorney-client relationship). Undersigned counsel seeks a ruling whether petitioner has waived his attorney-client privilege with respect to all communications touching on the issue of whether undersigned counsel consulted with petitioner concerning the withdrawal of the 2255 petition in 98-11857-DPW.

Undersigned counsel also moves for further time to file her affidavit, now due January 7, 2005, to a date not before January 12, 2005. As grounds for this motion, undersigned counsel states that she is awaiting clarification on the attorney-client privilege waiver and that she will be out of the office on another matter until January 12, 2005.

/s/ ELIZABETH L. PREVETT
ELIZABETH L. PREVETT